

Pena (1995) that the Constitution acknowledges only one race in the United States. It is American.

Attorney General Mark J. Bennett's spirited defense of the Akaka Bill (Hawaii Reporter, December 20, 2004) ignores this wisdom. It is nonsense on stilts. He talks about Congress' power to recognize tribes, but the Akaka Bill is not about recognizing a real tribe that truly exists. Instead, it proposes to crown a racial group with sovereignty by calling it a tribe. But to paraphrase Shakespeare, a racial group by any other name is still a racial group. Congress cannot circumvent the Constitution with semantics. The United States Supreme Court in *United States v. Sandoval* (1913) expressly repudiated congressional power arbitrarily to designate a body of people as an Indian tribe, whether Native Hawaiians, Jews, Hispanics, Polish Americans, Italian Americans, Japanese Americans, or otherwise. Associate Justice Willis Van Devanter explained with regard to congressional guardianship over Indians: "[I]t is not meant by this that Congress may bring a community or body of people within the range of this power by arbitrarily calling them an Indian tribe, but only that in respect of distinctly Indian communities the questions whether, to what extent, and for what time they shall be recognized and dealt with as dependent tribes requiring guardianship and protection of the United States are to be determined by Congress, and not by the courts."

Attorney General Bennett incorrectly argues that the Supreme Court has interpreted the Indian Commerce Clause to endow Congress with plenary "power to deal with those it finds to be Indian Tribes. . . ." No such interpretation has ever been forthcoming, and thus Mr. Bennett is unable to cite a single case to support his falsehood. Indeed, it is discredited by the *Sandoval* precedent.

Congress enjoys limited powers under the Constitution. They are generally enumerated in Article I, section 8, and include the power to regulate commerce "with the Indian tribes." Clause 18 also empowers Congress to make all laws "necessary and proper" for executing its enumerated authorities. Contrary to the Hawaii Attorney General, the Indian Commerce Clause has been understood by the Supreme Court as conferring a power to regulate the nation's intercourse with Indian Tribes, but not to summon a tribe into being with a statutory bugle. The Attorney General is also unable to articulate a connection between any enumerated power of Congress and the Akaka Bill's proposal to endow Native Hawaiians with the quasi-sovereignty and immunities of Indian Tribes.

He absurdly insists that the Founding Fathers intended an open-ended definition of Indian Tribe because contemporary dictionaries defined tribe as "[a] distinct body of people as divided by family or fortune or any other characteristic." But the Constitution's makers employed "Indian" to modify tribe. That modifier was understood to include only peoples with an Indian ancestry coupled with a primitive culture that necessitated federal protection from predation by States or private citizens. In *Sandoval*, for example, Congress properly treated Pueblos as an Indian tribe because "considering their Indian lineage, isolated and communal life, primitive customs and limited civilization, this assertion of guardianship over them cannot be said to be arbitrary. . . ." Chief Justice John Marshall in *The Cherokee Nation v. Georgia* (1831) likened an Indian Tribe's dependency on the United States to the relation of a ward to his guardian. The Akaka Bill, however, does not and could not find that Native Hawaiians need the tutelage of the United States because of their backwardness or child-like vulnerability to ex-

ploitation or oppression. Indeed, their political muscle has made them spoiled children of the law, as Attorney General Bennett himself underscores. Finally, the Constitution aimed to overcome, not to foster, parochial conflicts or jealousies. That goal would be shipwrecked by a congressional power to multiply semi-sovereign Indian tribes at will.

He stumbles again in attributing to a court the statement, "Indian tribes do not exist in Alaska in the same sense as in [the] continental United States." The statement was made by the Secretary of the Interior in a letter noting that Alaskan tribes occupied land which had not been designated as "reservations," in contrast to Indian tribes.

Section 2 of the Fourteenth Amendment further undermines the Attorney General's accordion conception of Indian Tribe. It apportions Representatives among the States according to population, but "excluding Indians not taxed." Mr. Bennett's argument would invite the majority in Congress to manipulate apportionment by designating entire States that generally voted for the opposition as Indian Tribes.

Finally, the Attorney General wrongly insinuates that Congress would be powerless to rectify historical wrongs to Native Hawaiians absent the Akaka Bill. Congress enjoys discretion to compensate victims or their families when the United States has caused harm by unconstitutional or immoral conduct, as was done for interned Japanese Americans in the Civil Liberties Act of 1988. Congress might alternatively establish a tribunal akin to the Indian Claims Commission to entertain allegations of dishonest or unethical treatment of Native Hawaiians. As the Supreme Court amplified in *United States v. Realty Co.* (1896): "The nation, speaking broadly, owes a 'debt' to an individual when his claim grows out of general principles of right and justice; when, in other words, it is based on considerations of a moral or merely honorary nature, such as are binding on the conscience or the honor of the individual, although the debt could obtain no recognition in a court of law. The power of Congress extends at least as far as the recognition of claims against the government which are thus founded."

TRIBUTE TO DECLAN CASHMAN

Mr. DAYTON. Mr. President, I rise to pay tribute to Ms. Declan Cashman who tomorrow marks her 20th year of service in the Senate.

Declan began her career in the Senate back in 1985 as a legislative secretary for my distinguished friend, Senator Dave Durenberger of Minnesota. She was promoted to positions on the Subcommittee on Intergovernmental Relations, the Permanent Subcommittee on Investigations, and the Committee on Health, Education, Labor, and Pensions. Today, she serves as my executive assistant, where she is invaluable to me and so many others on my staff. I do not sign a letter without first asking, "Has Declan looked at this?"

Despite her busy work schedule, Declan has many creative pursuits. She is both a lover of the theater and a talented actress herself. Recently, she has performed at Washington's Studio Theater, the Chevy Chase Players, and the Silver Spring stage.

Declan is an inspiration to the young men and women who come to work in

Washington every year. Every morning, she is the first to arrive in my office, where she proceeds to scour her hometown Boston Globe, the New York Times, the Washington Post's Style section, and Page Six, over a cup of black coffee. As her coworkers arrive, she enthusiastically shares the best stories with them.

On behalf of her Senate coworkers over the past 20 years and the thousands of constituents she has assisted, I thank Declan for her dedication and excellent public service. I hope that she will grace my office with her presence for the next 2 years. Then someone else will be my fortunate successor.

RECOGNITION OF THE 80TH ANNUAL PRINCE OF PEACE EASTER PAGEANT

Mr. INHOFE. Mr. President, I rise today in recognition of the 80th Annual "The Prince of Peace" Easter Pageant that has been performed annually in the historic Holy City of the Wichitas since 1926. I am very proud of this truly outstanding Oklahoma tradition and would like to congratulate the dedicated performers and organizers both past and present who have kept it alive all these years.

The pageant was the brainchild of a young pastor, Reverend Anthony Mark Wallock, of the First Congregational Church in Lawton, OK. Eighty years ago, he gathered a few hardy souls from his church and Sunday school class on a mountain peak at Medicine Park, OK, where he conducted a short Easter morning service. That worship ceremony, which was carried out in word, song, and pantomime, eventually became the world-renowned Easter pageant, "The Prince of Peace."

Word about the pageant spread quickly, and began attracting a larger audience. As a result, the pageant was moved to the foot of Mount Roosevelt in the heart of the Wichita Mountains Wildlife Refuge. The twenty-two buildings at the new site were completed and dedicated on March 31, 1935, and the first pageant there, performed on April 21, drew a crowd of 82,000 people.

In the 1940's, the pageant even drew the attention of Hollywood and in 1948 the film, "The Lawton Story—The Prince of Peace" was produced with the participation of many local citizens in Lawton and the surrounding area. Although Reverend Wallock passed away on December 26 of that year, the story of the pageant he founded lived on in the community that he loved.

Since then, hundreds upon thousands of volunteers have carried on the annual tradition of presenting this historic production. It has become the longest continuously running outdoor Easter pageant in America. Every Easter season, on Palm Sunday Eve and Easter Eve, starting at 9:00 in the evening, 300 costumed volunteer performers bring the pageant to life.